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Entered: June 21, 2005

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Paper 

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

RICHARD KROCZEK

Junior Party

(Applications 09/509,283, 09/823,307, and 09/972,524),

v.

TAKUYA TAMATANI and KATSUNARI TEZUKA

Senior Party

(Applications 09/383,551, 09/561,308, and 10/301,056).

**FAXED**

**JUN 21 2005**

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Patent Interference No. 105,168

**JUDGMENT - Bd.R. 127(b)**

Before, SCHAFER, TORCZON, and NAGUMO, Administrative Patent Judges.<sup>1</sup>

SCHAFER, Administrative Patent Judge.

Tamatani has filed a paper abandoning the contest as to the subject matter of Count 2. Paper 141. Kroczek has filed a paper abandoning the contest as to the subject matter of Count 3. Paper 143. The abandonment of the contest is construed to be a request for entry of an adverse judgment. 37 CFR § 41.127(b)(4). Accordingly, it is

<sup>1</sup> As part of Board efforts under the Government Paperwork Elimination Act, signatures on papers originating from the Board are being phased out in favor of a completely electronic record. Consequently, subsequent papers in this case originating at the Board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 C.F.R. § 10.18.

**ORDERED** that judgment on priority as to the subject matter of Count 2 (Paper 140, pp.1-2) is awarded against the senior party, TAKUYA TAMATANI and KATSUNARI TEZUKA;

**FURTHER ORDERED** that senior party, TAKUYA TAMATANI and KATSUNARI TEZUKA is not entitled to a patent containing Claims 70-79 of Application 10/301,056 and Claims 55-72 and 90-99 of Application 09/383,551 (all corresponding to Count 2);

**FURTHER ORDERED** that judgment on priority as to the subject matter of Count 3 (Paper 140, pp.2-3) is awarded against the junior party, RICHARD KROCZEK;

**FURTHER ORDERED** that junior party, RICHARD KROCZEK, is not entitled to a patent containing Claims 97, 98 and 150-153 of Applications 09/509,283 (all corresponding to Count 3);

**FURTHER ORDERED** that a copy of this judgment be made of record in the files of Applications 09/509,283; 09/823,307; 09/972,524; 09/383,551; 09/561,308, and 10/301,056;

**FURTHER ORDERED** that if there is any settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 41.205.

cc (FAX):

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## INTERFERENCE DIGEST

Interference No. 105,168

Paper No. 41

Name: Richard KroczeK

Serial No.: 09/509,283

Patent No.

Title: Anti-human T-cell costimulating polypeptide monoclonal antibodies

Filed: 08/11/00

Interference with Tamatani et al.

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

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\_\_\_\_\_  
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### FINAL DECISION

Board of Patent Appeals and Interferences Adverse Dated, 6/21/05

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Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

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This should be placed in each application or patent involved in interference in addition to the interference letters.